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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/636,057	08/07/2003	Guy Boudreau	2224-00200	1029
23505	7590	06/18/2004	EXAMINER	
CONLEY ROSE, P.C. P. O. BOX 3267 HOUSTON, TX 77253-3267			ADDIE, RAYMOND W	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Applicant(s)	Applicant(s)	
	10/636,057	BOUDREAU, GUY	
	Examiner	Art Unit	
	Raymond W. Addie	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Primer Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 2-4 are objected to because of the following informalities:

Claims 2, 3 In. 1 the phrase "said upper portion whereof comprising" should be

--wherein said upper portion comprises--.

Claim 4 In. 1 the phrase "said lower portion whereof " should be

--wherein said upper portion capable of--.

Claim 4, In. 3, the phrase "of the internal wall", should be --of the external wall-- to be consistent with claim 1, In. 10.

Claim 5, Ins. 4-7, the phrase "upper portion comprising a support surface that is supported upon the ground which serves as a foundation thereof for the purpose of transmitting the forces applied to said frame in such a way that said frame is supported by the ground"; should be --upper portion of said frame further comprising a support surface, supported upon the ground to serve as a foundation thereof and for transmitting applied loads to the ground--. For brevity and clarity.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Ann'es # 6,109,824.

Ann'es discloses a self-leveling manhole system that serves to prevent damage to the surrounding roadway from applied traffic loads, said manhole system comprising:

A tubular section (5).

A frame assembly having upper and lower apertures (1, 9) for transmitting surface water away from a road surface. Said frame further comprising:

Upper and lower portions (2/35) and (9) respectively, the upper portion (2) further comprising:

Horizontal walls/support surfaces (26, 27) and inclined walls/support surfaces (37, 38) for supporting said frame upon a support surface such as a sub-base or ground (80), such that applied traffic loads are transmitted to the sub-base or ground.

Said lower portion having downwardly conduit section (9) for directing run-off toward the upper extremity of the tubular section (5).

Wherein said frame is capable of vertical and angular movement via a sliding engagement between the tubular section (9) and a manhole head (5). Said vertical movement being capable of extending the length of the tubular section and responsive to soil heave due to freezing and thawing. See col. 3, ln. 33-col. 4, ln. 41.

In regards to Claims 3, 4 Ann'es discloses the aperture in the upper portion for receiving grate (1) is eccentric relative to the aperture of lower portion, that receives the tubular member (9). See fig. 3. Wherein said frame being capable of sliding the length of the external wall of the tubular section (9) and further being capable of relative angular movement relative to the longitudinal axis of the tubular section (5) in order to accommodate inclined roadways. See Fig. 2, col. 4, lns. 23-41.

Conclusion


4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Allard # 5,360,284 discloses a concrete drain inlet. Stellmach # 6,402,423 B1 discloses an apparatus for covering a subterranean conduit. Sondrup # 6,524,026 B2 discloses an adjustable utility access. Adam # 1,254,641 discloses an adjustable floor drain.

Art Unit: 3671

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond W. Addie whose telephone number is 703 305-0135. The examiner can normally be reached on 8-2, 6-8.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Raymond Addie
Patent Examiner
Group 3600

6/12/2004